

the ground that the plaintiffs had stated on their labels that the tea was "specially packed in Ceylon by the growers"—a statement only partially untrue because the important part of the statement, namely that it is grown in Ceylon, is perfectly true. But when it appeared that the defendants themselves had copied these very words on their own labels and that in their case, the tea having been grown in China, every word of the statement was untrue, there can be little doubt that the Court of Chancery would have treated the application with scant courtesy.

I think therefore that the plaintiffs are entitled to succeed. The plaintiffs do not claim an account but they are entitled to judgment in terms of paragraphs 1 and 2 of their claim and, in the absence of evidence on the subject, to nominal damages which I will fix at \$100. They will also be entitled to the costs of the action to be taxed on the higher scale.

Judgment accordingly.

Solicitors for the Plaintiffs—*Zehnder Bros.*

Solicitors for the Defendants—

John G. Campbell & Co.

[ORIGINAL CIVIL JURISDICTION]

A. R. HOLDEN & CO., LTD. Plaintiffs
vs.

1. SOH YIEW JIN
2. ONG TIANG SOON. Defendants

SOH YIEW JIN. Plaintiff
vs.

A. R. HOLDEN & CO., LTD. Defendants
[SINGAPORE SUITS No. 1148 OF 1931 & No. 79 OF 1932]

(Consolidated under Order of Court dated the 18th day of March 1932).

Master and Servant—service-agreement—material variation between oral and written agreements—termination of service—claim for wrongful dismissal—plea of mutual mistake.

Where a party alleges that a formal agreement signed by him did not carry out the intention of both parties he must prove that there was a prior agreement verbal or otherwise which did give effect to such intention. Rectification of the formal agreement is an essential part of the relief which he should have claimed if he could prove his allegation of mutual mistake.

In the absence of misrepresentation a mistake by a party to a contract as to the obligation he has undertaken when the contract has been reduced to writing gives no right to rescind.

Nor will relief be granted where ignorance of the obligation entered into was due to the negligence of the parties' legal adviser. In the case of a Solicitor acting for both parties failing to carry out their common intention equity might give relief where such solicitor has innocently misled them as to the legal effect of the document.

In February 1930 the Managing Director of the Plaintiff Company entered into an arrangement with S.Y.J. and O.T.S. whereby the Company was to order goods from England on the advice of S.Y.J. who was to

act as compradore and to be in charge of the same, undertaking responsibility for any bad debts and making himself answerable for half the loss suffered in the case of goods ordered on his advice and O.T.S. was to guarantee S.Y.J. against such bad debts. The verbal arrangement, embodied in rough notes, accompanying a letter written by the Managing Director to S.Y.J. was finally set out in two agreements of which one was a service agreement between the Company and S.Y.J. and the other an agreement of guarantee between the Company, S.Y.J. and O.T.S. The written agreements differed from the rough notes in various particulars, the most material variation being that whereas in the rough notes the period of appointment was stated to be for a definite period of 3 years with an option of continuing the same for a further period of 4 years by giving 6 months' previous notice before the expiration of 3 years, and the agreements of 14th March provided that the engagement was for 3 years subject to determination by either party giving to the other 6 months' previous notice in writing before the expiration thereof. The 1st defendant took up duties on 18th February, 1930 and continued business until 11th March 1931 when the Company gave him 6 months' notice determining the agreement. Prior to the execution of these agreements draft agreements were prepared by the plaintiffs' Solicitor and handed to S.Y.J. who discussed them with O.T.S. The latter instructed his Solicitor to approve the agreements on his behalf and on behalf of S.Y.J. The service agreement was duly approved by their Solicitor but no alteration were made therein. S.Y.J. continued to work until the expiration of the six months' notice and on the day following the termination of his services he protested through his Solicitor against his dismissal. O.T.S. the guarantor made no protests in the matter. On the 17th September 1931 S.Y.J. issued his writ in Suit No. 1148 of 1931 claiming damages for wrongful dismissal. The defendant contended that the service agreement was not binding in that he was under the impression that the period of service was for 3 years certain. In this action the plaintiffs counter-claimed in respect of cash advances made by them to S.Y.J. and there was no dispute regarding the counter-claim except as to *quantum*.

Held, (on the evidence) that, the mistake being unilateral, the 1st defendant was not entitled to the relief claimed and that the 2nd defendant was liable on his guarantee.

The facts and arguments are related in the Judgment below.

Walters, for the plaintiffs.

Campbell (Braga with him) for the first defendant.

Salt, for the second defendant.

Cur. Ad. Vult.
6-5-1932.

TERRELL, J.—In February, 1930, Mr. A. R. Holden the Managing Director of A. R. Holden & Co., Ltd. hereinafter referred to as the 'plaintiffs,' entered into negotiations with Soh Yiew Jin and Ong Tiang Soon, hereinafter referred to as the first and second defendants respectively. The arrangement proposed was that the plaintiffs should order goods from England and that the first defendant should advise them as to the goods to be ordered and act as compradore and be in charge of the sales, making himself responsible for any bad debts in connection with sales and for half the loss in the case of goods

ordered on his advice and subsequently sold at a loss. The second defendant, who is the father-in-law of the first defendant, was to guarantee the first defendant and to deposit adequate security for that purpose. Details of the suggested arrangement in the form of rough notes were enclosed in a letter written by Mr. A. R. Holden to the first defendant on the 10th February, 1930, (Exhibit A1-4). The arrangements between the parties were finally set out in two agreements dated March 14th, 1930, one of them being a service agreement between the plaintiffs and the first defendant and the other an agreement for guarantee between the first defendant, the second defendant and the plaintiffs.

It is important to notice that the agreements of March 14th, 1930, differed in various important respects from the suggested arrangement outlined in the rough notes of the 10th February, 1930. The most important of these differences are the following:—

- (1) In the rough notes the salary of \$300 a month was only payable to the first defendant if the sales amounted to \$10,000 per month, whereas in the final agreement the first defendant's salary was \$300 in any event.
- (2) In the rough notes the period of appointment was for a definite period of 3 years with an option of continuing the same for a further period of 4 years by giving 6 months' previous notice in writing before the expiration of the three years. In the agreement of March 14th, the engagement was for 3 years from the 18th February, 1930, subject to determination as thereunder provided and clause 11 of this agreement stated "this agreement shall be determined by either party giving to the other six months' previous notice in writing before the expiration thereof" Clause 12 provided that in the absence of notice the agreement should continue for a further period of 4 years.
- (3) In the rough notes the first defendant's liability for bad debts was unlimited and title deeds to the value of \$100,000 had to be deposited by the first defendant as guarantee against such bad debts. In the agreement of the 14th March, however, although the compradore's liability for bad debts remained unlimited the security was put up by the second defendant and his liability as surety was limited to \$50,000.

There were also other minor variations and the service agreement contained the usual clauses as to diligence and faithful service, as to divulging the affairs or secrets of the firm, and similar

clauses usual in a service agreement, which were not referred to in the rough notes. In anticipation of an agreement being come to the first defendant took up his duties on the 18th February, 1930, and business was continued in accordance with the terms of the agreement until the 11th March, 1931, when the plaintiffs gave the first defendant six months' notice determining the agreement. The first defendant, however, continued to work for the plaintiffs until the 11th September, 1931—the expiration of the six months' notice. On the 12th September, 1931, the first defendant by his solicitor, Mr. C. Da Silva, protested against his dismissal. This was the first occasion upon which the first defendant's solicitor questioned the plaintiff's interpretation of the notice clause in the service agreement though the first defendant had done so himself on the 31st March, 1931, (Exhibit A-15). The second defendant, who was also represented by solicitors, Messrs. J. G. Campbell & Co., made no protests on the subject. Neither did the first defendant give any evidence that he had made any verbal protests on receipt of the notice on the 11th March, 1931. At no time was it suggested in the correspondence that the agreement of the 14th March, 1930, did not carry out the intention of the parties and should be rectified so as to accord with such intention.

On the 17th September, 1931, the first defendant issued his writ in Suit No. 1148 of 1931 claiming damages for wrongful dismissal, but there was no claim for rectification of the agreement. In this action the plaintiffs counter-claimed in respect of cash advances made by them to first defendant and such advances were not disputed except in certain unimportant items and it is agreed that on this counterclaim the plaintiffs are entitled to judgment for the sum of \$1,562.77. This agreement involves the admission that the first defendant's salary has been fully paid up to the 11th September, 1931. On the 30th January, 1932, the plaintiffs commenced their action Suit No. 79 of 1932 against both defendants claiming the sum of \$10,915.38 due under the service agreement and the agreement of guarantee.

By an Order of Court dated the 18th March, 1932, these actions were consolidated and by arrangement between counsel the first and second defendants began.

The chief issue as regards the first defendant in this case is whether the service agreement of the 14th March, 1930, is binding on him in the form in which it was executed by the parties. If it is so binding, it cannot seriously be disputed that the plaintiffs were entitled to give six months' notice of the determination at any time before the expiration of the period of three years, therein referred to. The first defendant's case on the pleadings is not very clear and in the

course of the trial his counsel admitted that his case as finally presented differed from the case presented in the pleadings.

Generally speaking, when parties have reduced the terms of their contract to writing and such contract has been signed by both parties, such writing is the only evidence of the contract between the parties. This is the law in England and is the law in the Colony under section 92 of the Evidence Ordinance. This general rule is subject to several well-established exceptions. The only exceptions which it is necessary to notice are those contained in proviso (1) which reads as follows:—

"Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law."

The circumstances under which, in a case like the present, a party might escape from the consequences of his written contract are three in number—first that the agreement was not binding as it was not his agreement, that is to say, the defence of *non est factum*; secondly, that the first defendant signed the agreement in its present form as a result of a misrepresentation by the plaintiffs; and thirdly, that by reason of a mistake common to both parties the agreement as signed did not coincide with the agreement come to by the parties. (See judgments of Greer, L.J. in *Blay v. Pollard & Morris*, (1920) 1 K.B. p. 628 at pp. 635 and 636).

The first defendant has confined himself to the issue of common mistake—see paragraph 5 of the amended statement of claim in Suit No. 1148 of 1931. Now, there can be no doubt that before a party can allege that the formal agreement signed by him did not carry out the intention of the parties he must prove that there was a prior agreement verbal or otherwise which did give effect to such intention (see per Warrington, L.J. in *Craddock Bros. v. Hunt*, (1923) 2 Ch. p. 136 at p. 159). If the first defendant's statement of claim in Suit No. 1148 of 1931 is referred to, it will be found in paragraph 3 that the agreement upon which he relies was made on the 10th February, 1930, when Mr. Demuth, the plaintiffs' solicitor, was instructed to draw up a document embodying the terms contained in the rough notes. It is quite clear that the allegation in paragraph 3 of the amended statement of claim cannot be sustained. The first defendant admits that after receiving the rough notes on the 11th February, 1930, he saw Mr. Holden and certain modifications were discussed and agreed to, in particular the modifications as to salary, but it is quite clear

that the various other modifications above referred to both in the service agreement and in the agreement of guarantee cannot possibly have even been considered until the draft agreements had been prepared by the plaintiffs' solicitor. What happened was that Mr. Demuth prepared the draft agreements on the instructions of Mr. Holden and that when these agreements had been prepared, probably early in March, these were handed by Mr. Holden to the first defendant. The first defendant discussed them with his father-in-law, the second defendant—and also instructed Mr. Kow Soon Kim, his solicitor, to approve the agreements on his behalf and on behalf of the second defendant.

No alterations were made in the service agreement which was approved by Mr. Kow Soon Kim both on behalf of the first and second defendants on the 8th March, 1930. Various alterations were, however, made in the agreement of guarantee and in particular the second defendant's liability was limited to \$50,000 and one whole clause which provided that the *compradore* and surety should insure the plaintiffs' premises, was deleted. This agreement was also approved by Mr. Kow Soon Kim on behalf of the *compradore* and his surety. The rough notes apply not only to the proposals for the service agreement but also for the agreement of guarantee. The agreements are very closely related and must be read together. For instance, whereas the rough notes provide that the *compradore* should deposit security for a value of \$100,000, there is no such provision in the service agreement as the security was in fact deposited by the second defendant and the deposit of title deeds is only referred to in the agreement of guarantee. There can be no doubt that if any verbal agreement was come to between the parties prior to signing the agreement of 14th March, it was at some date on or about 8th March, when the drafts had been approved by the defendants' solicitor and the defendants' amendments had been accepted by the plaintiffs.

A further matter which arises on the statement of claim in Suit No. 1148/1931 is the absence of any claim for rectification and it appears to me that the contention of the plaintiffs' counsel is sound and that rectification is an essential part of the relief which the first defendant should have claimed if he could prove his allegation of mutual mistake. Counsel for first defendant, however, did not apply to amend his statement of claim either as to the date of the alleged verbal agreement or as to the relief claimed. As regards the latter point, first defendant relied upon section 261 of the Civil Procedure Code embodying Order XX Rule 6 of the English Rules and Orders, and section 3 (h) of the Civil Law Ordinance.

Section 261 (1) reads:—

"Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and it shall not be necessary to ask for general or other relief, which may always be given, as the Court or Judge thinks just, to the same extent as if it had been asked for".

Section 3(h) of the Civil Law Ordinance provides that the Court shall grant either absolutely or on such reasonable terms and conditions as to it seems just, all such remedies as any of the parties are entitled to in respect of any legal or equitable claim properly brought forward by them respectively in such cause or matter, so that all matters in controversy between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any such matters avoided.

As regards the Civil Law Ordinance, it appears to me that no question of multiplicity of legal proceedings is involved. On the service agreement of the 14th March as it stands, there is no doubt the first defendant could properly be dismissed and it is essential for him, therefore, either to get rid of that agreement or to alter its terms before he can establish a claim for wrongful dismissal. Rectification of the agreement is therefore the first and most important part of the relief which the first defendant should have claimed, and under section 261 of the Civil Procedure Code and on the pleadings as they stand, and in the absence of any amendment, I fail to see how the first defendant can possibly succeed in his claim for wrongful dismissal. I would refer to the observations of Scrutton, L.J. in *Elay v. Pollard & Morris*, (1930), 1 K.B. at p. 634 where he states "cases must be decided on the issues on the record; and if it is desired to raise other issues, they must be placed on the record by amendment."

Although in my view the first defendant's claim must fail on technical grounds, I have come to the same conclusion on the merits. It is clear on the evidence that negotiations between the parties commenced on the 8th February, 1930, and continued at all events for some weeks. The 'rough notes' of the 10th February, 1930, were merely a stage, though an important stage, in such negotiations, and they certainly did not represent the final agreement. At some period, probably early in March, the plaintiffs' solicitor produced a draft service agreement which contained an important variation from the rough notes so far as concerned the right to determine the agreement before the expiration of the period of three years. Such variation was perfectly plain to see: there was no concealment about it, and the draft agreement with this variation was left in the hands of the first defendant for a sufficient length of time. The

first defendant speaks English perfectly and admits that he can write and read it. He was not however satisfied even with this, but consulted his own solicitor Mr. Kow Soon Kim, an Advocate and Solicitor of 20 years standing.

It would undermine all confidence in written documents if, in circumstances such as these, a party could still come forward and allege that the agreement which he had considered and which had been approved by his solicitor, was nevertheless not the agreement which he intended to sign. As I did not think it necessary to call on the plaintiffs to offer evidence in rebuttal, the first defendant's evidence must be accepted *prima facie* for what it was worth, and what it amounts to is this—that the first defendant and the second defendant and his solicitor all thought and continued to think that the service agreement was for three years certain. If that is the case I can only say that the first and second defendants were unfortunate in the legal advice which was given to them. In the absence of misrepresentation a mistake by a party as to the obligations he has undertaken when the contract has been reduced to writing, gives no right to rescind (see Hals. Vol. XXI, page 5 par. 8).

Nor will relief be granted when ignorance of the obligation entered into was due to negligence of the parties' legal adviser (Hals. Vol. XXI, page 16, par. 28). It is true that in certain cases equity might give relief where a solicitor has innocently misled parties as to the legal effect of a document (see Hals. Vol. XXI, page 12, para. 21), but it is clear that this only refers to the case of a solicitor acting for both parties failing to carry out their common intentions.

In order to succeed the first defendant must prove not only that he made a mistake but that the mistake was mutual and the onus is on him to establish that the plaintiffs were suffering under a similar misapprehension (see *W. Huggins v. Mayor of Northampton*, (1927) 1 Ch. page 128 at p. 135) and to my mind the evidence fails to establish any misapprehension on the part of the plaintiffs. The fact that the plaintiffs' solicitor prepared a document in a certain form on the plaintiffs' instructions raises a very strong presumption that the document was in accordance with the plaintiffs' instructions. As regards the meaning which the plaintiffs themselves attributed to the clause in question, the only evidence offered by the defendants was singularly inclusive. It was to this effect—when the service agreement had been prepared for signature by Mr. Demuth, the plaintiffs' solicitor, such agreement corresponding in every particular with the draft agreement approved by the first defendant's solicitor, the first defendant signed it in Mr. Demuth's office. He says he did not read it over though he thinks Goh Li Seah, Mr. Demuth's clerk, read it to him. Anyway, if it corresponded

with the draft there was no need for him to read it again. He says he was still under the impression that the agreement was for three years certain but he does not say that Goh Li Seah told him so. So he signed the agreement without any alleged misrepresentation by the plaintiffs or their solicitor or the solicitor's clerk as to what the agreement said as to determination. Then the first defendant Mr. Demuth and his clerk went to the second defendant's house.

The draft agreements had already been fully discussed between the first and second defendants. Nevertheless the agreements were interpreted into Malay by Mr. Demuth's clerk for the benefit of the second defendant. The first defendant understands Malay and states that he understood Goh Li Seah tell second defendant that "the time was for 3 years definitely." The second defendant does not specifically confirm this. He says:

"Goh Li Seah read them to me. He explained to me in Malay. He read both documents. I did not read them myself. I refused to do so as I could not understand the high-flown English. I then signed them."

Q. Would you have signed the guarantee if you had known that the service agreement could be determined by six months' notice?

A. Certainly I would not sign."

The result of this evidence is that the Court is asked to come to a conclusion as to the plaintiffs' state of mind from the alleged interpretation given by a Chinese Clerk speaking in Malay to another Chinese, the latter Chinese not even confirming the interpretation which a listener put upon it. When it is remembered that both the first and second defendants, if their evidence can be accepted, had a preconceived notion that the agreement meant something different from what it said, it will be realised that such evidence of the plaintiffs' state of mind is so slight as to be negligible and very much less than is necessary to discharge the onus laid upon the first defendant by law, or to rebut the presumption arising from the alterations made by the plaintiffs' own solicitor.

The only other evidence submitted as to the mistake being mutual was that of certain letters written by the plaintiffs' Bradford correspondents to them on the 25th and 29th April, 1930.

This evidence is of no value whatever. The plaintiffs had sent to Messrs. Clare & Heyworth of Bradford copies of the agreements and in their letters Messrs. Clare & Heyworth comment on the agreements. In the absence of letters from the plaintiffs contemporaneous with the agreement, the comments of third parties must clearly be irrelevant. In any case the letters

merely talk of the agreement as being for 3 years which indeed it was. The question of prior determination was not referred to. If Messrs. Clare & Heyworth made a mistake quite independently to the plaintiffs as to the effect of the agreement, that can have no bearing on the question whether the plaintiffs were themselves mistaken.

The second defendant was called as a witness by the first defendant and at the close of the case of both defendants plaintiffs' counsel was prepared to submit that there was no case to meet.

I ruled that he was entitled to make such submission without prejudice to his rights to call his evidence if I held against him.

The second defendant's case is slightly different to that of the first defendant. His contentions were shortly, that if the first defendant succeeded in the claim for wrongful dismissal in Suit No. 1148 of 1931, the second defendant was automatically discharged as surety. In view of my finding against the first defendant this defence does not arise but I should by no means be prepared to assent to the proposition put forward without hearing further argument. The second defendant admits that he agreed to guarantee the first defendant on an agreement which was to be for three years' service. If the first defendant had been allowed to rectify his service agreement the agreement would then have accorded with the second defendant's idea of what it ought to have been, and I fail to see why the second defendant would not have been bound by the terms of his guarantee which, as rectified, would have admittedly carried out the intention of the parties. He did not rely on the Statute of Frauds and in any case it was admitted that on the authorities the agreements of the 14th March, 1930, as rectified would satisfy the statute.

Apart from this argument the second defendant did not rely on mutual mistake.

The second defendant, however, had two other defences to the claim on the guarantee (Suit No. 79 of 1932). The first was '*non est factum*'. For this defence to succeed it must be shown that the document is of a character wholly different from that which it was represented to be (see per Scrutton, L.J. in *Blay v. Pollard & Morris*, (1930) 1 K.B. at pages 632 and 633). The second defendant knew that he was guaranteeing the performance by the first defendant of his obligation under a service agreement. The defence of *non est factum* is not therefore open to him.

His other defence is that he was induced to sign the guarantee because the effect of the service agreement was misrepresented to him. This plea is contained in para. 2 of the second

defendant's defence. The first allegation in this paragraph is a misrepresentation by Mr. A. R. Holden on or about the 10th February, 1930, that he was employing the first defendant for three years certain. This representation, if made, appears to me to be irrelevant as negotiations had only then commenced and no finality was reached until several weeks afterwards. The other misrepresentation alleged is that by Goh Li Seah on the 14th March, 1930. The evidence on this point has already been referred to and the second defendant has not sworn that any such misrepresentation was ever made. I am satisfied, however, that in signing the guarantee the second defendant relied on the representations of his son-in-law, the first defendant, and of his solicitor Mr. Kow Soon Kim. The evidence of the second defendant and of Mr. Kow Soon Kim does not quite agree in various particulars but they both say that Mr. Kow Soon Kim told him that it was stated in the service agreement that it could only be terminated at the end of three years. The second defendant admitted in cross-examination that he was satisfied with any agreement which satisfied the first defendant, and I have little doubt that this statement is correct. In order to succeed, however, the second defendant must show that he acted on the plaintiffs' misrepresentation and in this he has completely failed.

I hold, therefore, that the first defendant has not made out his claim in Suit No. 1148 of 1931 and that he has no defence in Suit No. 79 of 1932 except as to *quantum*.

The second defendant also fails in his defence in Suit No. 79 of 1932 and is liable on his guarantee. There will have to be an enquiry before the Registrar as to the amount due in Suit No. 79 of 1932 and the further consideration of the action must be adjourned with liberty to apply. There will be judgment for the plaintiffs for the sum of \$1,562.77 on their counterclaim in Suit No. 1148 of 1931.

Judgment accordingly.

Solicitors for the Plaintiffs—Allen & Gledhill.

Solicitors for the 1st Defendant—

Claude H. da Silva.

Solicitors for the 2nd Defendant—

John G. Campbell & Co.

[ORIGINAL CIVIL JURISDICTION]

Re M. S. WARD.

[SINGAPORE BANKRUPTCY No. 263 OF 1932.]

Bankruptcy—Small debt—debtor undertaking to pay off by instalments.

In a small case where the debtor has a reasonable prospect of paying off the debt by instalments the Court may in its discretion refuse to make a Receiving Order, —Ordinance No. 44 (*Bankruptcy*) Section 6 (3).

The petitioning creditor was a small money lender and the petition was founded on a District Court Judgment for \$101.55 including costs.

The debtor who was employed as a clerk at Yen 50 per mensem (about \$35 Straits) gave an undertaking to pay \$5 per mensem until the debt was satisfied.

The CHIEF JUSTICE (Sir William Murison) adjourned the petition *sine die* on the special ground that the debt was small and the debtor was able to satisfy it (Section 6(3) Ordinance No. 44 (*Bankruptcy*)).

The petitioning creditor was ordered to pay the Debtor's costs.

Note.—The formal order was drawn up as follows:—

Upon the hearing of the adjourned petition this day and upon reading the affidavit of Bagga Singh sworn to and filed herein on the 7th day of July, 1932, and the affidavit of M. S. Ward sworn to and filed herein on the 22nd day of July, 1932, and upon hearing Counsel for the Petitioning Creditor and for the Debtor It is ordered that the Debtor do pay to the Petitioning Creditor the sum of \$5 per month the 1st payment to be made on the 1st August, 1932, and the subsequent payments to be paid on the 1st day of every succeeding month until the whole of the said sum of \$101.55 shall have been fully paid and satisfied and that the Debtor's costs of these proceedings be taxed and paid by the Petitioning Creditor AND IT IS FURTHER ORDERED that the hearing of this petition be adjourned *sine die* on the special ground that the amount due is small and that Debtor is able to satisfy this debt.

This report was checked and approved by the learned Chief Justice who remarked that the words:

"IT IS ORDERED that the Debtor do pay to the Petitioning Creditor....." were inserted in error.

The Court did not order the Debtor to pay. The formal order should read:

"on the Debtor UNDERTAKING to pay to the Petitioning Creditor....."

[ORIGINAL CIVIL JURISDICTION]

A. R. A. R. M. RAMANATHAN CHETTIAR

vs.

CHUA TIANG SENG AND OTHERS.

[SINGAPORE ORIGINATING SUMMONS No.9 of 1931.]

Equitable Mortgage—Deposit of Deeds—Memorandum of Lien—Registration of Deeds—Parol evidence of deposit—Practice.

The Defendants deposited title deeds relating to land with the Plaintiff subject to an agreement that they should be held as security for monies lent. The